

Jeffrey Weiss (AZ Bar No. 012012)
jweiss@weissiplaw.com
Kenneth M. Motolenich-Salas (AZ Bar No. 027499)
kmotolenich@weissiplaw.com
WEISS & MOY, P.C.
4204 N. Brown Avenue
Scottsdale, Arizona 85251
Tel: (480) 994-8888
Fax: (480) 947-2663

Attorneys for First Service Maintenance Group Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

First Service Networks, Inc.,

Plaintiff,

v.

First Service Maintenance Group, Inc.,

Defendant.

No. 2:11-CV-01897-DGC

**DECLARATION OF KENNETH M.
MOTOLENICH-SALAS IN
SUPPORT OF DEFENDANT FIRST
SERVICE MAINTENANCE GROUP,
INC.'S MOTION TO SEAL (I)
SUPPLEMENT AND (II)
SUPPORTIVE DECLARATION OF
ANDREA FISH TO MOTION TO
DISMISS**

(Assigned to the Honorable David G.
Campbell)

I, KENNETH M. MOTOLENICH-SALAS, declare as follows:

1. I am an attorney with the law firm of Weiss & Moy, P.C., counsel of record for Defendant First Service Maintenance Group, Inc. ("FSMG") in the above-captioned action. I make this declaration in support of FSMG's Motion to Seal the Supplement and Supportive Declaration of Andrea Fish in support of FSMG's Motion to Dismiss. I have personal knowledge of the facts in this Declaration, and if called to do so, I could and would testify competently to the same.

1 2. This litigation is between FSMG and Plaintiff First Service Networks, Inc.
2 ("FSN"), which are marketplace competitors.

3 3. Several portions of paragraphs ("the Sealed Portion") of the Supplement
4 and Supportive Declaration quote, cite, and/or make reference to FSMG's confidential
5 business information concerning the size and scope of its business which, if revealed,
6 could comprise FSMG's market position vis-à-vis FSN. Specifically, such information
7 provides information related to the relative size and geographic distribution of FSMG's
8 services.

9 4. This information is not obtainable outside of FSMG, is kept as highly
10 confidential information within FSMG, and has not nor would it generally be disclosed
11 to any third party under any circumstances for fear that use of the information would
12 undermine FSMG's market position.

13 5. This information qualifies as either Confidential Material or Attorney's
14 Eyes Only Material as defined by the Stipulated Protective Order in force in this action
15 (Doc. No. 28).

16 6. Counsel for FSN concurs with the sealing of Supplement and Supportive
17 Declaration.

18 7. FSMG has prepared and concurrently filed a redacted version of the
19 Sealed Supplement and Supportive Declaration. The redactions include all references to
20 FSMG's confidential business information.

21 8. Only the Sealed Portion of the Sealed Supplement and Supportive
22 Declaration is redacted in the publicly-filed version of FSMG's Sealed Supplement and
23 Supportive Declaration.

24 I declare under penalty of perjury under the laws of the United States of America
25 that the above is true and correct and that this Declaration was executed on July 3, 2012
26 in Scottsdale, Arizona.

27 /s/ Kenneth M. Motolenich-Salas
28 Kenneth M. Motolenich-Salas

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2012, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Matthew D. Kleifield, SB# 011564

mkleifield@lbbslaw.com

Robert C. Ashley, SB# 22335

rashley@lbbslaw.com

LEWIS BRISBOIS BISGAARD & SMITH LLP

2929 North Central Avenue, Suite 1700

Phoenix, Arizona 85012-2761

Telephone: (602) 385-1072

Facsimile: (602) 385-1051

Nancy Rubner Frandsen, *Pro Hac Vice*

nfrandsen@woodcock.com

Kevin M. Bovard, *Pro Hac Vice*

kbovard@woodcock.com

WOODCOCK WASHBURN LLP

Circa Centre – 12th Floor

2929 Arch Street

Philadelphia, Pennsylvania 19104

Telephone: (215) 568-3100

Facsimile: (215) 568-3439

Attorneys for Plaintiff FSN

By: s/ Kenneth Motolenich-Salas